

REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: September 21, 2015

Order ____ Ordinance XX Resolution ____ Motion ____ Information ____
No. No. 2015-2787 No.

SUBJECT: An Ordinance Declaring a Ban on the Sale of Recreational Marijuana by Medical Marijuana Dispensaries, and Declaring an Emergency in the city of Newberg.

Contact Person (Preparer) for this
Ordinance: Truman A. Stone, City Attorney
Dept.: City Attorney's Office
File No.:

HEARING TYPE: ☒ LEGISLATIVE ☐ QUASI-JUDICIAL ☐ NOT APPLICABLE

RECOMMENDATION:

The Council instructed staff to present for council consideration, the attached Ordinance No. 2015-2787 declaring a ban on the sale of recreational marijuana by medical marijuana dispensaries, and declaring an emergency.

EXECUTIVE SUMMARY:

Mr. Doug Rux, Community Development Director, presented at the September 8, 2015 work session. His key questions presented were:

- Does the City Council want a ban on early recreational sales from Medical Marijuana Dispensaries that start October 1?
 - Retail sales begin October 1 from Medical Marijuana Dispensaries in limited amounts (1/4 ounce, 4 non-flowering plants, seeds).
 - Recreational sales from Medical Dispensaries end December 31, 2016.
 - Ban would not allow recreational sales during this time period and does not require referral to the voters.

The Council voted to instruct staff to draft an ordinance for consideration at the September 21, 2015 Council meeting.

FISCAL IMPACT:

Financial impact is unable to be calculated. It is likely to be minimal, if any.

STRATEGIC ASSESSMENT (RELATE TO COUNCIL GOALS):



ORDINANCE No. 2015-2787

**AN ORDINANCE OF THE CITY OF NEWBERG DECLARING A BAN ON
THE EARLY SALE OF RECREATIONAL MARIJUANA BY MEDICAL
MARIJUANA DISPENSARIES, AND DECLARING AN EMERGENCY**

RECITALS:

1. **WHEREAS**, the Oregon Medical Marijuana Act created a system for the transfer of medical marijuana between growers and patients and caregivers through medical marijuana dispensaries;
2. **WHEREAS**, the voters adopted Measure 91 in November 2014, which provides criminal immunity for people aged 21 or older who possess certain amounts of marijuana and directs the Oregon Liquor Control Commission to license the retail sale of marijuana;
3. **WHEREAS**, the Oregon Liquor Control Commission has not yet licensed the retail sale of recreational marijuana;
4. **WHEREAS**, the Legislature enacted Senate Bill 460 (2015) to allow medical marijuana dispensaries to sell limited marijuana retail product starting October 1, 2015;
5. **WHEREAS**, Senate Bill 460 (2015) provides that a city may adopt ordinances prohibiting the sale of limited marijuana retail product from medical marijuana dispensaries;
6. **WHEREAS**, the City Council wants to prohibit the sale of marijuana retail products from medical marijuana dispensaries in the city to protect and benefit the public health, safety and welfare of existing and future residents and businesses in the city;

THE CITY OF NEWBERG ORDAINS AS FOLLOWS:

Section 1. Chapter 9.10.25, Ban of Early Marijuana Sales, is added to read as follows:

1. **BAN DECLARED.** The City of Newberg hereby prohibits the sale of limited marijuana retail product in any area subject to the jurisdiction of City of Newberg as described in section 2 of Senate Bill 460 (2015).
2. **DURATION OF BAN.** The ban imposed by this ordinance will be effective until December 31, 2016, or until the Legislature ends sales of limited marijuana retail product by medical marijuana dispensaries, whichever comes later.
3. **ENFORCEMENT.** Violation of the provisions of this ordinance shall constitute a Class 1 Civil Infraction as that term is defined under the uniform civil infraction procedure ordinance. Each individual sale to a separate person shall constitute a separate offense. Enforcement shall be according to the uniform civil infraction procedure ordinance (NMC 2.30.150 et seq.).

4. **ADDITIONAL REMEDIES.** Notwithstanding the enforcement provisions in subsection 3 above, the City reserves and may invoke any other remedies authorized under local, state, federal, or common law, including injunctive relief or other equitable remedies.

Section 2. Emergency Clause.

EMERGENCY CLAUSE: This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect on September 21, 2015.

➤ **EFFECTIVE DATE** of this ordinance, which is: September 21, 2015.

ADOPTED by the City Council of the City of Newberg, Oregon, this 21st day of September, 2015, by the following votes: **AYE:** **NAY:** **ABSENT:** **ABSTAIN:**

Sue Ryan, City Recorder

ATTEST by the Mayor this ____ day of September, 2015.

Bob Andrews, Mayor